

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
	:
BERNARD L. MADOFF INVESTMENT	:
SECURITIES LLC,	:
	:
Debtor.	:
	:
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PERTAINS TO THE FOLLOWING CASE:	:
	:
IRVING H. PICARD, Trustee for the Liquidation	:
of Bernard L. Madoff Investment Securities LLC,	:
	:
Plaintiff,	:
	:
-v-	:
	:
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:
ASCOT FUND LTD., GABRIEL CAPITAL	:
CORPORATION,	:
	:
Defendants.	:
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Adv. Proc. No. 08-01789 (SMB)  
SIPA LIQUIDATION  
(Substantively Consolidated)

Adv. Proc. No. 09-1182 (SMB)

**DECLARATION OF JUDITH A. ARCHER IN SUPPORT OF  
DEFENDANTS' MOTION *IN LIMINE* TO PRECLUDE THE TRUSTEE  
FROM SEEKING DOUBLE RECOVERY THROUGH EQUITABLE SUBORDINATION**

1. I am a member of the firm of Norton Rose Fulbright US LLP, counsel to Ralph C. Dawson, as Receiver for Defendant Ascot Partners, L.P. ("Ascot Partners"), and Defendant Ascot Fund Limited ("Ascot Fund") in the above-captioned action. I submit this declaration in support of Defendants' Motion *In Limine* to Preclude the Trustee from Seeking Double Recovery Through Equitable Subordination.

2. Attached hereto as Exhibit 1 is a true and correct copy of relevant excerpts from the Transcript of the Hearing on Summary Judgment, Dkt. No. 322.

3. Attached hereto as Exhibit 2 is a true and correct copy of relevant excerpts from the Transcript of the First Hearing on Motions *in Limine*, Dkt. No. 408.

4. Attached hereto as Exhibit 3 is a true and correct copy of relevant excerpts from the Trustee's Opposition to the Motion for Summary Judgment, Dkt. No. 289.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 23, 2017

/s/ Judith A. Archer

Judith A. Archer